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JUN 26 2001

In re Application of
Nauss, Reid, Wolf,
Scheherazade
Application No. 09/013,077
Filed: January 26, 1998
For: MODEL FOR TESTING
IMMUNOGENCITY OF PEPTIDES

**OFFICE OF PETITIONS
A/C PATENTS**

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: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)
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This is in response to the "Request for Decision on Petition Under 37 CFR 1.47(a) and additional supporting data," filed May 2, 2001, and to the petition filed June 28, 2000.

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The reply to this decision may include an oath or declaration executed by the non-signing inventor in compliance with 37 CFR 1.63. (If a declaration is filed by the currently non-signing inventor, please make sure that the declaration lists all inventors and does not suggest that the inventor is a sole inventor, such a declaration will neither comply with 37 CFR 1.63 nor evidence that the inventor is willing to join in the filing of this application.)

The above-identified application was filed on January 26, 1998 without an executed oath or declaration and naming Scheherazade as a joint inventor.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the

last known address of the non-signing inventor. Applicant lacks items (1) and (2) set forth above.

As to item (1), Rule 47 applicant has failed to show that the inventor cannot be reached after a diligent effort to reach the inventor. Applicant has stated that calls were made to Johns Hopkins University and NIH "where it was rumored that she may be working." What other attempts were made to locate the inventor, e.g., through e-mail or the telephone?

As to item (2), an oath or declaration for the patent application signed by Nauss, Reid and Wolf in compliance with 37 CFR 1.63 and 1.64 still has not been presented. A declaration setting forth Mr. Scheherazade's residence, citizenship and post office address has not been presented. An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the available inventors, Mr. Nauss, Mr. Reid and Ms. Wolf, on behalf of themselves and Mr. Scheherzade is REQUIRED. See MPEP 409.03(a). It is unclear whether any of the available inventors actually signed the declarations; it appears as though they only filled out their names and addresses on the declaration but did not sign them.


Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
 Box DAC
 Washington, D.C. 20231

By FAX: (703) 308-6916
 Attn: Special Program Law Office

By hand: Crystal Plaza Four, Suite 3C23
 2201 South Clark Place
 Arlington, VA 22202

Telephone inquiries related to this decision should be directed to the undersigned at (703) 306-3159.


Karin Tyson
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for Patent Examination Policy